

**TOWN OF DAVIE  
REGULAR MEETING  
SEPTEMBER 7, 2004**

**1. PLEDGE OF ALLEGIANCE**

The meeting was called to order at 7:00 p.m. and was followed by the Pledge of Allegiance.

**2. ROLL CALL**

Present were Mayor Truex, Vice-Mayor Paul, Councilmembers Crowley, Hubert and Starkey. Also present were Town Administrator Willi, Town Attorney Kiar, and Town Clerk Muniz recording the meeting.

**3. OPEN PUBLIC MEETING**

Mayor Truex advised of the rules for the Open Public Meeting.

Martin Kiar spoke of his recent candidacy for State Representative for District 97 and thanked all the residents who supported him.

Mayor Truex closed the open public meeting.

Fire Chief Don DiPetrillo advised of pre-, during, and post-storm related activities related to Hurricane Frances. He stated that the Town had responded to more than 1,350 incidents by the Police Department, 500 incidents by Fire Rescue, and 85 incidents by Public Works and other associated groups. Chief DiPetrillo advised that after the storm, 23,000 residents lost power, 12,000 lost telephone service and 25 intersections were not working. He indicated that flooding in the Town was not a major factor. Chief DiPetrillo commented that the Town's Emergency Operations Center (EOC) had closed on September 6th when regular staffing was restored. He thanked staff and Council for their efforts during the hurricane.

Vice-Mayor Paul thanked Chief DiPetrillo, Police Chief John George, members of staff and residents for their work preparing for the hurricane. She also thanked Special Projects Director Bonnie Stafiej, Ron Wesley, department directors, the EOC workers and residents who assisted with care of horses and community outreach in the Town.

Councilmember Starkey thanked staff, Human Resources Director Mark Alan, Community and House Development Director Shirley Taylor-Prakelt department directors, Public Works/Capital Projects Director Bruce Bernard, Public Works staff, and Mr. Willi for all their efforts and dedication to the Town's residents.

Councilmember Crowley commended the Town's EOC workers and indicated that he was impressed with the operations of the Town. He asked if the Town would be sending staff to areas in northern Florida who were hardest hit by Hurricane Frances. Mr. Willi indicated the Town would do a fund drive and advised that to date, no requests for mutual aid had been received. Councilmember Crowley stressed that victims in northern areas of Florida urgently needed help.

Mayor Truex commended the efforts of Town staff and the EOC workers and felt the Town's disaster plan worked very well. Mr. Willi stated that the Town worked hard to develop its disaster preparedness and relief plans. Mayor Truex wished to recognize individuals who he felt went beyond the call in their efforts. Mr. Willi advised that the Town would recognize such individuals. Mayor Truex advised that most of the calls he received were related to waste pickup and asked staff to explain the plan for waste pickup.

Mr. Bernard explained that the Town, along with the contractor, would pick up debris in two stages beginning the following Tuesday.

Mayor Truex asked if there would be a debriefing session. Mr. Willi responded yes, and advised that recommendations to improve operations during a storm may include additional cost items.

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Vice-Mayor Paul asked Mr. Bernard if residents could be assured that every single street would be cleaned. Mr. Bernard responded in the affirmative.

Mayor Truex advised that item 6.4 had been requested to be tabled.

Councilmember Starkey requested that a resident who wanted to comment on the tabling be allowed to speak. Mayor Truex asked if this was the second tabling request from IKEA. Mr. Willi responded in the affirmative.

Mitchell Chester, 10391 SW 16 Place, spoke regarding the applicant's request to table. He felt that tabling to October 20th was too early for the residents to analyze the traffic data report, which would not be released until the following day. Mr. Chester stated that a resident had written a letter to IKEA and no response or follow up had been received.

Mayor Truex asked if Mr. Chester had an idea of a more appropriate date. Mr. Chester stated that this was difficult to estimate based on IKEA's responsiveness. He felt this was a very serious traffic issue to be addressed.

Mayor Truex asked if IKEA was going to pay for an independent traffic analysis. Barbara Hall, representing the petitioner, advised that IKEA had agreed to pay for a peer review.

Mr. Chester spoke of the commitment made on July 29th and the correspondence that was not answered. He asked when the follow up would take place. Ms. Hall stated that the traffic study would be available the following day. She stated that her client had agreed to put money into a cost recovery system for the Town to hire an independent engineer to review the traffic study. Ms. Hall stressed that this commitment was in place and asked that the Town request the amount of money it needed.

Mayor Truex asked Mr. Willi if it was possible for the Town to do cost recovery and involve the residents' input. Mr. Willi stated that the Code allowed the Town to hire an independent traffic engineer at the applicant's expense.

Mr. Chester indicated that communication based on July 29th indicated that it was the residents' wish to hire an independent engineer. Ms. Hall advised that she would discuss this further with Mr. Chester and added that she would respect the Council's position.

Councilmember Starkey spoke of the URS traffic study discussed earlier. She wanted to look at those numbers in comparison to whoever the new engineer would be and the report they would generate. Development Services Director Mark Kutney indicated that the Town's plan was to review the URS study.

Councilmember Starkey spoke of what was promised to the residents and asked if this would meet the residents' expectations. She maintained that there would be issues because of County standards and traffic circulations. Councilmember Starkey advised that they tended to pay impact fees in the County and the region which she and Vice-Mayor Paul had objections to. Councilmember Starkey advised there would be local impacts that the Town would look at that IKEA would have to be aware of. She felt a traffic monitor at intersections did not suffice.

Vice-Mayor Paul stated that it sounded to her like Council needed to go beyond the October 20th tabling date. Ms. Hall stated she did not have the authority from the property owner to extend the tabling. She advised that the applicant would commit to work with the Town and residents throughout the traffic study efforts before October 20th. Vice-Mayor Paul stated that if the Town tabled to October 20th and found these items were not addressed, a third tabling might result.

Mr. Chester asked if a peer review was the same as an independent study. Ms. Hall explained that a peer review involved having an engineer review the traffic study for sufficiency of the analysis. Mr. Chester stated that statistics could be analyzed different ways. He indicated that improper assumptions and analyses could flaw any independent study and it made sense to start at the base line to get this study done truly objectively.

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Mayor Truex felt the tabling could be extended to November 3, 2004. Councilmember Crowley suggested tabling to the second meeting in November.

Councilmember Hubert asked if IKEA was not approved, would an office/warehouse go there. Mr. Kutney responded in the affirmative. He stated that the applicant could file for a six-month extension.

Vice-Mayor Paul made a motion, seconded by Mayor Truex, to table to November 17, 2004. In a voice vote, with Councilmember Hubert dissenting, all voted in favor. (Motion carried 4-1)

Mayor Truex announced that staff had withdrawn item 6.5. Mr. Kutney advised that the ordinance had to be revisited for better regulations. Mayor Truex asked if any home tutors would be in jeopardy until that time. Mr. Kutney stated that they could continue these activities.

Mayor Truex advised that item 4.15 needed to be added to the agenda as Nova Southeastern University was requesting a temporary use.

Councilmember Starkey made a motion, seconded by Councilmember Hubert, to add. In a voice vote, all voted in favor. (Motion carried 5-0)

### **4. APPROVAL OF CONSENT AGENDA**

#### *Minutes*

- 4.1. May 19, 2004 (Regular Meeting)
- 4.2. June 1, 2004 (Workshop Meeting)
- 4.3. June 2, 2004 (Regular Meeting)
- 4.4. June 16, 2004 (Regular Meeting)
- 4.5. July 7, 2004 (Regular Meeting)

#### *Home Occupational Licenses*

- 4.6. Ground Effects Landscape Service, 13501 SW 16 Court
- 4.7. AHP, Inc., 11651 SW 21 Place
- 4.8. Bremol, Inc., 13501 SW 16 Court

#### *Resolutions*

- 4.9. **AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,**  
R-2004-205 **AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH SWIMAMERICA SERVICES TO PROVIDE AQUATICS PROGRAM SERVICE.**

- 4.10. **MANAGEMENT ANALYSIS AND FACILITATION SERVICES - A**  
R-2004-206 **RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE TOWN ADMINISTRATOR OR DESIGNEE TO NEGOTIATE AN AGREEMENT WITH CARROLL CONSULTING, INC. IN PARTNERSHIP WITH INFORMATION INTELLECT, INC. TO PROVIDE MANAGEMENT ASSESSMENT, ANALYSIS, TRAINING, AND FACILITATION SERVICES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

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- 4.11. **AMENDMENT** - A RESOLUTION OF THE TOWN OF DAVIE, ADOPTING THE  
R-2004-207 FIRST AMENDMENT TO THE LOCAL HOUSING ASSISTANCE PLAN (LHAP)  
FOR 2004/05 TO 2006/07 UNDER THE STATE HOUSING INITIATIVES  
PARTNERSHIP (SHIP) PROGRAM; AND PROVIDING FOR AN EFFECTIVE DATE.
- 4.12. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA  
R-2004-208 AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER  
INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE AND THE FLORIDA  
DEPARTMENT OF TRANSPORTATION TO CONSTRUCT A FEDERALLY  
FUNDED TRANSIT ENHANCEMENT PROJECT BY THE TOWN OF DAVIE; TO  
ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO  
SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

*Temporary Use Permit*

- 4.13. TU 6-2-04, GL Homes, 3181 Hiatus Road (construction trailer)

*Quasi-Judicial Consent Agenda*

- 4.14. SP 4-8-04, Palm Garden Park, 6575 SW 49 Court (RM-10) *On August 10th, Site Plan Committee approved based on the planning report and agreements made by Mr. Amos to Mr. Evans to change the elevations to add the wall, the gated entrance, and the raised roof element on the south side of each building as agreed upon; to use dimensional roof shingles; all conditional upon bringing this back prior to the Town Council meeting; having Mr. Khavanin show the access road on the site plan; bringing back the color boards and a rendering as well as the site plan with the 15-foot access from 65th [Avenue] to 69th [Avenue] to be shown on the site plan. On August 24th, approved based on the planning report and to correct sheet 3-C of the "civil plan" to show 65th Avenue as a two-way the full length or show whatever has been approved in the Davie Manor Road Improvement Agreement; that at lots 34 and 35, it be shown as a two-way drive; at 66th Avenue, show that as a 30-foot right-of-way with a two-way drive; on section A-A there should be a 24-foot back out required so the dimensions need to be corrected on that section; SW 49 Street should be called SW 49 Court on the south side of the property; remove the eight-foot pervious pavement on sheet 3-C; add two small decorative trees at the front trellis area between the buildings; and the drainage and pavement issues need to go through the Engineering Department*

*Item to be Added*

- 4.15. TU 8-2-04, Nova Southeastern University, 3301 College Avenue (special event)

Vice-Mayor Paul made a motion, seconded by Mayor Truex, to approve item 4.1 subject to excusing Councilmember Crowley on the roll call. In a voice vote, all voted in favor. (Motion carried 5-0)

Vice-Mayor Paul made a motion, seconded by Mayor Truex, to table items 4.4 and 4.5 to September 14, 2004. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex requested that items 4.9 and 4.14 be removed from the Consent Agenda. Councilmember Starkey requested that item 4.13 be removed.

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Vice-Mayor Paul made a motion, seconded by Mayor Truex, to approve the Consent Agenda minus items 4.9, 4.13 and 4.14. In a voice vote, all voted in favor. (Motion carried 5-0)

**5. DISCUSSION OF CONSENT AGENDA ITEMS**

4.9 Mayor Truex objected to language in the contract that pertained to protecting those identified by sexual orientation. He advised that sexual orientation was not a category of discrimination recognized by the State or federal government. Mayor Truex believed that the provision as to sexual orientation was discriminatory with regard to preferring one group over other groups.

Vice-Mayor Paul did not agree that the provision pertaining to sexual orientation was discriminatory.

Councilmember Starkey spoke of her familiarity with Broward County ordinances and advised that this was a protected clause that the County recognized. She stated that as this referred to a contract in partnership with the County, it was unlikely that the County would agree to any language adjustments. Councilmember Starkey advised that because this was standard language that could affect grant funding from the County.

Vice-Mayor Paul made a motion, seconded by Councilmember Starkey, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.13 Councilmember Starkey spoke of construction trailers on Parcel B and asked if the Town did periodic checks to show quantity of trailers and their locations. She voiced her concern about an additional trailer at the site in light of the storm and about additional trailers being added without permit. Mr. Kutney responded that this would be checked and that correspondence had been sent to the property owner. He advised that if a trailer was added without permission, the Town would take action. Mr. Kutney also stated that the owner might be allowed to keep the trailers until completion of that portion of the development.

Councilmember Starkey spoke of a time limitation of 18 months after which the trailers were to be moved and asked if staff could look into the approaching deadline date. She stated that she liked the fact that moving the trailers would not affect residents at their new location. Mr. Kutney reiterated that the Code permitted the owner to have the trailers until completion of the phase. He suggested revisiting the temporary use permit in one year to determine the status. Councilmember Starkey asked that the condition be stated that the existing trailers be relocated to Parcel C.

Councilmember Starkey made a motion, seconded by Vice-Mayor Paul, to approve subject to construction trailers on Parcel B being moved to Parcel C and that this be limited to one year with a review. In a voice vote, all voted in favor. (Motion carried 5-0)

4.14 Mr. Kiar read the rules of evidence and swore in the witnesses. Planning and Zoning Manager Fernando Leiva summarized the planning report.

Mayor Truex asked if the entire Site Plan Committee had voted to approve at the second meeting held on this item. Mr. Leiva advised that the motion had carried 3-0 with Mr. Engel and Mr. Aucamp absent.

Mr. Kiar opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Crowley advised that he had spoken with Mr. Anders and the engineer. Vice-Mayor Paul advised that she had spoken with Mr. Amos and Mrs. Anders.

Vice-Mayor Paul made a motion, seconded by Councilmember Hubert, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

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**6. PUBLIC HEARING**

*Ordinances - First Reading (Second and Final Reading to be held September 14, 2004)*

- 6.1. **REVISION** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING A REVISION TO THE ESTIMATED REVENUES AND APPROPRIATIONS FOR THE FISCAL YEAR 2004.

Town Clerk Muniz read the ordinance by title. Mayor Truex advised that a public hearing would be held on September 14, 2004.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Starkey made a motion, seconded by Councilmember Hubert, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 6.2. **CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA ADOPTING RULES AND REGULATIONS TO FOSTER CITIZEN PARTICIPATION IN THE PROCESSING OF DEVELOPMENT APPLICATIONS WITHIN THE TOWN; AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, BY CREATING DIVISION 7, ENTITLED "PUBLIC PARTICIPATION"; PROVIDING FOR GUIDELINES AND REQUIREMENTS FOR THE CITIZEN PARTICIPATION PLAN AND REPORT; AMENDING SECTION 12-302 ENTITLED "APPLICATIONS"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF THE LAND USE PLAN APPLICATION; AMENDING SECTION 12-306 ENTITLED "PROCESSING"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF REZONING AND SPECIAL PERMIT APPLICATIONS; AMENDING SECTION 12-372 ENTITLED "SITE PLAN SUBMISSION REQUIREMENTS"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF THE SITE PLAN APPLICATION; AMENDING ARTICLE 12-379, ENTITLED "MASTER PLANNED DEVELOPMENT SUBMISSION REQUIREMENTS"; PROVIDING FOR THE PUBLIC PARTICIPATION PLAN AS A REQUIREMENT OF THE MASTER PLANNED DEVELOPMENT; AMENDING SECTION 12-503 ENTITLED "DEFINITIONS"; PROVIDING FOR DEFINITIONS UTILIZED IN THE PUBLIC PARTICIPATION PROCESS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

Town Clerk Muniz read the ordinance by title. Mayor Truex advised that a public hearing would be held on September 14, 2004.

Mayor Truex opened the public hearing portion of the meeting.

Karen Stenzel-Nowicki, 5480 SW 55 Avenue, thanked staff for their diligence on behalf of the residents during the hurricane. She advised that she had spoken at the Planning and Zoning Board with regard to public participation and the Board had voted unanimously to approve this item. Ms. Stenzel-Nowicki voiced her support of this item.

Mayor Truex closed the public hearing.

Councilmember Starkey spoke of amended language that she wanted to see corrected in the following sections: 1) Step 1 - Citizen Participation and Plan: amend the second line stating "the names and addressed of residents" to read "the addresses" and amend paragraph A to include "the Mayor and district Councilmembers;" 2) paragraph E - Citizen Participation and Plan: amend the section regarding "affected parties, scheduling events planned by the applicant to complete the citizen participation

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procedure; applicants shall be required to conduct a minimum of two public hearings with affected parties" to state, "including those residents to be notified and the affected parties to be notified and to be able to attend the Development Review Committee, and giving the dates, place and time for an open forum for the Committee and the Mayor and the Councilmembers at that time."

Councilmember Starkey advised that she would like the Citizen Participation Report to be included in the Committee. Mr. Kutney stated that any citizen could attend the Committee. Councilmember Starkey stated that if the affected parties were notified, the public would be more likely to attend. She felt this was a way to get the dialog going earlier and pointed out that this approach worked well in other cities. Mr. Leiva asked if Councilmember Starkey meant everyone notified within the 1,000 radius. Councilmember Starkey responded in the affirmative and added that the Committee should include the public participation process to ensure that affected parties heard staff's plans. She also felt that including the public in that process was important. Mr. Kutney thought this would tie up the process further as the Committee's review was a staff review of technical issues.

Vice-Mayor Paul stated this was just a matter of adding another step of allowing the affected parties to be notified when the Committee was going to meet. Mr. Kutney stated that based on Councilmember Starkey's request, this would add another two or three months to the process if the public participated in the Committee's process. Councilmember Starkey stated that she did not know that it would necessarily add time and asked that if this happened, staff come back to Council. Mr. Kutney reiterated that this would add time. Vice-Mayor Paul recommended that instead of making one contingent upon the other, add a section that the affected parties, the Mayor and District Councilmember be notified so they could attend the Committee if they chose.

Mayor Truex referred to 12-319.7, subsection 5 had "some very bad language" with regard to the two public meetings. Mr. Kutney indicated that this language was going to be amended to state "all affected parties". Mayor Truex stated there would never be letters from all affected parties and recommended that a "negative" notice be worded that if you wanted to be heard, you would need to send a letter to staff and if nobody requested, the public meetings could be waived. However, if one person requested it, the meetings would have to be held. Mayor Truex felt it was impossible to expect all people to send letters with regard to the matter.

Councilmember Starkey stated that she had no problems leaving it to reflect two public meetings. She pointed out that sometimes the homeowners association's board of directors had different opinions from residents. Councilmember Starkey stated that she would like to keep the language indicating two public meetings and omit the verbiage that was double underlined.

Councilmember Crowley felt that the Committee was an informal, roundtable staff meeting and the meetings would need to be restructured if input was to be allowed. He stated that he had attended some of the Committee meetings and did not feel this was the right place for public input. Councilmember Crowley added that the public had the right to be heard at the Planning and Zoning Board, Site Plan Committee and Council meetings and he did not think the Committee meetings were the right arena. Councilmember Starkey felt it was important to operate everything in the sunshine and if the public knew what staff's concerns were, they would better understand them.

Mr. Kutney agreed with Councilmember Crowley that this situation could degenerate into forums that were not ideal. Councilmember Starkey felt that it was better for this to happen in the Committee forum than in another protracted forum.

Councilmember Hubert stated that she was under the impression that this Committee was an opportunity for the developer to talk to the people, not to sit on the employees reviewing information. Councilmember Crowley stated that the Committee was simply a roundtable discussion and that the whole structure would have to be changed.

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Mr. Leiva felt that changing the process would add time and may even necessitate the changing of venue. He stated that if the Town used its website to update the status of applications, this would serve as another communication channel. Mr. Leiva agreed with Councilmember Crowley and advised that the Committee meeting was for technical staff and the applicant and the public, if they assist, to change some highlights of the project. He felt that making the process more complex would add to the timeline.

Vice-Mayor Paul stated that she had attended one or two of the Committee meetings and advised that the public listened and had asked a few questions which were answered. She did not see what the issue was and did not feel the public participation process needed to change. Vice-Mayor Paul pointed out that the fact that the meetings were held in the daytime eliminated many people from attending anyway.

Mr. Kutney concurred with Vice-Mayor Paul's and Councilmember Crowley's views. He felt that if Council's expectation was that issues would be resolved at the Committee, this would never happen. Vice-Mayor Paul concurred.

Mayor Truex asked if the notice to residents would include when the two public meetings, the Site Plan Committee, the Planning and Zoning Board, or Council meetings would be held. Vice-Mayor Paul responded in the affirmative. Mayor Truex recommended adding boilerplate language explaining what each meeting was for.

Mr. Leiva explained that staff would not be able to list specific dates as it looked at estimated times. He felt staff could give an estimated timeline of the different meetings applicable to the application. Councilmember Crowley felt the Committee review was at such a preliminary stage, that it might be 50% design.

Mayor Truex stated Councilmember Starkey's request might not be the way to proceed. Councilmember Starkey asked how this worked in other cities. Vice-Mayor Paul asked that Councilmember Starkey name one so Council could find out how it worked. Councilmember Starkey requested that staff determine how many cities did development review notices. Councilmember Crowley advised that he served on four cities and they did not do this.

Councilmember Crowley asked staff to go through exemptions. Mr. Kutney and Planning Supervisor Marcie Nolan summarized the exemptions. Mayor Truex felt all the exemptions should be eliminated. He inquired about the section referring to all parties sending a letter.

Councilmember Hubert stated that if it was difficult for Council to agree on this, it would be more difficult to get all the public to agree. She felt the waiver should remain. Mayor Truex agreed and felt the language should indicate "all the people" as it was unlikely that all the public would respond. Vice-Mayor Paul concurred. Mayor Truex clarified that the section was 12-319.7 (A) (5) to say "all" instead of "any".

Vice-Mayor Paul made a motion, seconded by Councilmember Crowley, to approve subject to amending language in Section 12.319.7 (A) (5). In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)



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*Quasi-Judicial Item*

- 6.3. **VARIANCE** - V 6-1-04, Ridge on Nob Hill/Forest Ridge Master Association, located on the east side of Nob Hill Road north of Tree Tops Park ((1) to reduce the required shade trees within the landscape buffer adjacent to Nob Hill Road from 63 to 43; 2) to reduce the required accent trees within the landscape buffer adjacent to Nob Hill Road for the Ridge on Nob Hill from 25 to 18 trees; and 3) to allow 9 buffer trees to be planted around the lake inside of the Ridge on Nob Hill development, as opposed to within the designated landscape buffer) *Planning and Zoning Board recommended approval of all three variances*

Mr. Kiar read the rules of evidence and swore in the witnesses. Mr. Leiva summarized the variance request.

Suzanne Utnick, representing the petitioner provided evidence which illustrated the condition of landscaped berms surrounding the property. She gave a brief presentation outlining the landscape improvement plans the community wanted to undertake while walking through the overall project.

Mr. Kiar opened the public hearing portion of the meeting.

Jim Nathan, 4121 SW 84 Avenue, asked about the drainage plan. Ms. Utnick indicated that the plan had been approved by the CBWCD and advised that there would be no change in grades.

Mr. Kiar closed the public hearing.

Councilmember Starkey advised she had spoken with the Planning Division several times. Mayor Truex and Councilmember Hubert advised they had spoken with Ms. Utnick on the phone.

Vice-Mayor Paul felt that many of the trees on the Target site on University Drive, such as Cypress, need to find homes quickly so as not to be destroyed and may be able to be used to upgrade the trees on their site.

Mayor Truex commended Ms. Utnick on the presentation. Councilmember Crowley commended Ms. Utnick on the presentation and plans and suggested including wetland plants. Ms. Utnick advised that aquatic plants had been sown in around the lake area.

Councilmember Hubert made a motion, seconded by Councilmember Starkey, to approve variance 1. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Councilmember Starkey made a motion, seconded by Councilmember Hubert, to approve variance 2. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

Councilmember Starkey made a motion, seconded by Councilmember Hubert, to approve variance 3. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

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*Items to be tabled or withdrawn*

**6.4. APPLICANT REQUESTING A TABLING TO OCTOBER 20, 2004**

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS, APPLICATION LA 03-12A, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE PLAN MAP DESIGNATION OF CERTAIN LANDS FROM "COMMERCE/OFFICE" TO "COMMERCIAL"; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (tabled from April 7, 2004) *Local Planning Agency recommended denial based on that the proposal does not meet the criteria set forth in the Code 12-304, specifically items 4 and 10 of the planning report - it is not appropriate as it abuts a residential area, and it would not be an appropriate change nor the best use*

This item was tabled to November 17, 2004 earlier in the meeting.

**6.5. WITHDRAWN BY STAFF**

CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE; AMENDING SECTION 12-32 ENTITLED "TABLE OF PERMITTED USES" PROVIDING FOR HOME OCCUPATION REGULATIONS; AMENDING SECTION 12-34(N) ENTITLED "HOME OCCUPATION" PROVIDING FOR INTENT, ZONING DISTRICT LIMITATIONS AND USE CRITERIA FOR MUSIC LESSONS AND STUDENT TUTORING IN SINGLE-FAMILY RESIDENTIAL NEIGHBORHOODS; AMENDING SECTION 12-503 ENTITLED "DEFINITIONS" PROVIDING FOR DEFINITIONS FOR HOME OCCUPATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR AN EFFECTIVE DATE. (tabled from July 14, 2004)

This item was withdrawn earlier in the meeting.

**7. APPOINTMENTS**

7.1. Agricultural Advisory Board (one exclusive appointment - Councilmember Starkey; term expires April 2006) (insofar as possible, members shall have experience in agricultural matters, related occupations or other similar skills)

No appointment was made.

7.2. Child Safety Board (Councilmember Crowley and Starkey and Mayor Truex; terms expire April 2006) (whenever possible, members shall have interest and expertise in law enforcement, elementary school instruction, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointments were made.

7.3. Open Space Advisory Committee Agency (one exclusive appointment - Mayor Truex; term expires April 2006)

No appointment was made.

7.4. School Advisory Board (one exclusive appointment - Mayor Truex; term expires April 2006) (insofar as possible, members are to have experience in educational matters)

No appointment was made.

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- 7.5. Senior Citizen Advisory Committee (one exclusive appointment - Councilmembers Crowley and Mayor Truex; two exclusive appointments - Councilmember Hubert; terms expire April 2006) (members shall be a minimum 60 years of age)

No appointments were made.

### **8. OLD BUSINESS**

#### **8.1. Solid Waste Contract/Bulk**

Vice-Mayor Paul needed a clarification and to get Council's recommendation on bulk collection. She wanted to ensure that when talking about bulk collection, residents had the latitude to use plastic bags for yard waste that might be difficult to place in the cart. Vice-Mayor Paul felt that limiting yard debris to waste measuring less than four inches in diameter was not what she envisioned. She stated that she would go along with the roll carts for the farm, ranch and large property areas, since it was difficult to make a distinct district of those properties, as long as bulk pickup would be done once a week.

Vice-Mayor Paul reminded Council that she had previously indicated that if a homeowner's association had the right to have bulk pickup on a particular date once a month, it was their prerogative to do this, as they regulated what they did, and might not need bulk pickup weekly. She felt communicating with homeowner's associations regarding bulk collection times would be helpful. Vice-Mayor Paul advised that she had spoken with several people with horses and extensive vegetation and stated that having yard waste of less than four inches cut up and put into carts was not what she envisioned.

Vice-Mayor Paul asked for Council's support in identifying that bulk pickup would include yard waste that was placed in plastic bags, for residents who could not fit waste in the carts.

Mayor Truex asked what residents currently did, since bulk pickup was only provided every three months. Vice-Mayor Paul responded that if a resident had six cubic yards of yard waste, they could not fit it in the cart. She pointed out that there was more volume of waste now. Councilmember Hubert stated that if someone got two carts and still had that much yard debris, they needed a dumpster.

Assistant Town Administrator Ken Cohen spoke of the proposed contract and read a list specifying bulk waste items and also spoke of the four inch specification. He felt the language indicated referred to branches or tree trunks more than four inches.

Councilmember Starkey stated that as she heard it, the language was pretty clear and pointed out that the main reason for the move to the cart system was to have a neater process. She felt that any bulk beyond the four inches might need to be addressed, regarding the amount of waste people were generating on a regular basis. Councilmember Starkey stated that staff should not have debated the language referring to "bulk" in the contract. She indicated that this should have been sent to Mr. Kiar for his opinion if there was any unclear language. Councilmember Starkey felt debating this item for two months was too long.

Vice-Mayor Paul stated that she had a responsibility to the residents to represent their concerns and that residents needed to know that they had the option to have all their needs addressed. She spoke of the recent meeting at the Everglades Restoration regarding the removal of horse manure and the specified manner outlined. Mayor Truex asked how horse manure was currently removed. Vice-Mayor Paul stated that some was thrown in the garbage, while other removal methods had to be addressed because of ground water contamination issues.

Vice-Mayor Paul stated the issue she first had was regarding the limbs allowed to extend outside of the cart. She indicated that as she had to cut things by herself and advised that she could not cut to fit trimmings in the barrel. Vice-Mayor Paul advised that she could not handle the large cart and spoke of other residents who had the same concern. She stated that it was difficult for many to fill a 96-gallon container with waste and wheel it across a property and many people would not necessarily take

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advantage of the option. Vice-Mayor Paul felt the issue had gotten ridiculous and felt it boiled down to Waste Management wanting to make a certain amount of money.

Bill Laystrom, representing Waste Management, stated that additional carts were only \$1.25 per month and were not intended to be a profit issue, but rather a convenience to increase the efficiency of the operation, thereby making the cost cheaper for residents. He stated that enough carts had been added for residents' to take advantage of and advised that the system had worked for years in Plantation Acres without any problems. Mr. Laystrom indicated that the language specifying the four inches came from the interlocal agreement. He stated that weekly bulk pickup was a lot and pointed out that there would not be as much waste to collect if it was picked up weekly.

Mayor Truex asked if there was a maximum length of branches. Tony Spadeccia, representing Waste Management, responded that the bulk needed to be at a manageable four inches and added that the Town had chosen the program.

Vice-Mayor Paul reiterated that she had previously stated that as long as bulk pickup included yard waste, she would go with the roll carts.

Mayor Truex felt that Mr. Kiar should review the language in question. Mr. Laystrom felt that taking the provision out of the contract would reduce the efficiency of the program. Mayor Truex felt this was an important issue to be addressed. Mr. Kiar stated that he was not privy to the negotiations and stated he would need to look at the contract. Mayor Truex asked that the contract and the opinion be brought back before Council.

Mayor Truex asked if it was acceptable to put animal waste in garbage cans. Mr. Laystrom responded that it did not fit in any definitions of hazardous waste.

Vice-Mayor Paul spoke of the Town going into a program regarding creating energy with a central compost area. Councilmember Starkey thought that was expensive.

Mr. Spadeccia spoke of the concessions that were made by Waste Management to the condominium residents in the Town, along with other services not mentioned in the original request for proposal. He advised that Waste Management had also offered to provide 120 hours annually of service to the Town for debris cleanup for non-event disasters, at no charge to the Town. Vice-Mayor Paul thanked Mr. Spadeccia for these accommodations.

### **9. NEW BUSINESS**

#### **9.1. Collection of Attorney's Fees - Olde Bridge Run Homeowner's Assn., et al vs. Town of Davie**

Vice-Mayor Paul stated the Town should show some compassion and direct special counsel Mike Burke to withdraw the motion to collect fees from the residents in settlement of this case. She felt the residents believed they had the right to take this issue to court.

Vice-Mayor Paul made a motion, seconded by Councilmember Crowley, to not collect money from the residents.

Councilmember Hubert sought clarification on the two types of fees. She stated that she understood not going after the attorney's fees but was not in favor of waiving other fees. Vice-Mayor Paul felt that with some losses incurred due to the recent hurricane, the Town did not need to do this and should show compassion and not try to collect any fees.

Mayor Truex felt the law entitled the Town to the cost and felt the case was filed maliciously. He stated that \$50,000 was a lot of money to walk away from and the Town should move forward with the motion and abide by the judge's decision. Mayor Truex pointed out that the judge who heard the case had determined that the group had no case. Vice-Mayor Paul felt this sent a bad precedent to residents that if they disagreed and lost, they would end up paying. Mayor Truex felt the message was that residents

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ought not to bring frivolous, mean-spirited lawsuits. Councilmember Hubert spoke of the hatefulness in the Town and felt that by letting this go, it might be an opportunity to “bury the hatchet”.

Councilmember Starkey stated there were some residents who would never get over it but the majority of people were doing quite well. She felt Council had an obligation to the majority of the Town. Councilmember Starkey asked if Mr. Burke had been notified of this meeting so he could comment.

Mayor Truex asked if Council would be willing to go for the court costs and not the attorneys’ fees. Councilmember Hubert indicated that she would be in favor of this. Mayor Truex said being charitable was giving away one’s own money but giving away taxpayers’ money was not.

Councilmember Crowley restated his support for Sheridan House. He felt it was a long road he wanted to close the book on.

Vice-Mayor Paul made a motion, seconded by Councilmember Crowley, to waive all court costs and attorney’s fees. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - no. (Motion carried 3-2)

### **9.2. New Park and Facility Names**

Mr. Willi spoke of various options and naming rights for parks by contribution. He suggested that Option 1 was to have the Council suggest names and Option 2 was to have a naming contest for the residents.

Vice-Mayor Paul asked that the option be included that magnanimous residents who wished to donate large sums of money would have naming rights. Mayor Truex stated he would not be in favor of this.

Councilmember Starkey was in favor of Option 2, but suggested short-listing three or five recommendations to be brought back before Council. Mr. Willi advised that the Parks and Recreation Committee would likely provide the needed oversight or the Open Space Advisory Board. Mayor Truex suggested that each Committee select two out of all the entries. Mr. Willi suggested that the schools and the advisory boards could generate names through a contest.

## **10. MAYOR/COUNCILMEMBER’S COMMENTS COUNCILMEMBER HUBERT**

**FORMAN.** Councilmember Hubert asked if Mr. Forman had turned in his site plan and if so, why it was still on Mr. Kiar’s litigation report. Mr. Kiar advised that based on his last discussion with Mr. Burke, the stipulation was being returned by the Town Clerk to Mr. Burke and that Mr. Burke was then going to obtain signatures of the plaintiffs. He indicated he would check on the status on this item with Mr. Burke.

## **MAYOR TRUEX**

**PUBLIC PARTICIPATION.** Mayor Truex spoke of the public participation decorum rules that had appeared on the back of the agenda and asked where that language came from. Town counsel Andre Parke stated that the section Mayor Truex referred to was not the decorum section but dealt with site plan and quasi-judicial procedures and He advised that he had written that section. Mayor Truex asked whether Mr. Kiar was going to prepare a procedure for the quasi-judicial consent agenda procedure. Mr. Willi advised there had been an agenda meeting on this issue and stated that there were several issues to be addressed that required flexibility. Mayor Truex asked that Mr. Kiar be brought into those discussions.

**TREE PRUNING.** Mayor Truex spoke of trees that were trimmed that were tall and top heavy and he had noticed those were the trees that were damaged. He advised that the trees that were hat racked held up safer in the storm. Mayor Truex felt the tree-trimming ordinance discouraged people from trimming

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and asked that the tree-pruning ordinance be re-examined as many trees were knocked down that appeared to be pruned by Town standards.

Vice-Mayor Paul stated that her trees were trimmed every July by a professional who lived in the Town and added that topping the trees kept the trees manageable. She indicated that there were ways to do this efficiently without loss of trees. Vice-Mayor Paul stated that trees needed a solid center trunk and that any tree that split off at the bottom was not taken care of properly and likely had other weak areas. She encouraged people to attend the Town's workshops on tree trimming and pruning. Vice-Mayor Paul advised residents that it was wise to hire a good landscape person to properly trim trees each year before hurricane season.

### **COUNCILMEMBER STARKEY**

**MATH IGLER.** Councilmember Starkey requested that a workshop be scheduled to discuss the Math Iglar Grove.

**DAVIE WEST.** Councilmember Starkey commented on Davie West's ongoing problems with power outages. She spoke of health and safety issues related to four-day power outages caused by tree limbs that hit transformers and wires. Councilmember Starkey advised that the community wanted to discuss putting their power lines underground and asked Mr. Willi for some direction on acquiring cost estimates. Mr. Willi advised that Town Engineer Larry Peters had been involved with other projects which involved requesting FPL estimates for running lines underground. Councilmember Starkey stated that she wanted a cost estimate and asked for some information prior to the upcoming meeting on Sunday. Mr. Willi stated that this was a very expensive undertaking and indicated that Mr. Peters could be contacted about this matter.

### **11. TOWN ADMINISTRATOR'S COMMENTS**

**RESIGNATION.** Mr. Willi advised that he had been selected as the new County Administrator for Monroe County and that pending negotiations, he anticipated giving his formal notice to the Town. He predicted a starting date of November 1st and indicated that he would be submitting a resolution to Council at the September 14th meeting regarding his resignation.

Mayor Truex asked if Mr. Willi objected to shaving off a few days prior to his start date. Mr. Willi stated he had no problem with this.

Councilmember Starkey congratulated Mr. Willi on his new position and requested his input throughout the budget process. She asked that any Town staff who was interested to submit their letters of interest. Councilmember Starkey stated that she wanted to discuss the selection process as she wanted this to be a public process. She asked that Mr. Willi bring forward some suggestions for the selection process for a new Town Administrator. Mr. Willi indicated that he was uncomfortable with this request. He stated that the Town had Assistant Town Administrator Ken Cohen who could fill the role of interim administrator. Mr. Willi stated that he had hired Mr. Cohen because he trusted him implicitly and felt Council could put their trust in him.

Mayor Truex stated he liked Mr. Willi's suggestion to work with Mr. Cohen in the interim. Councilmember Hubert stated that no one had asked Mr. Cohen if he wanted the job. Mayor Truex asked Mr. Cohen if he would be willing to fill this role in the interim. Mr. Cohen responded in the affirmative. Mr. Willi stated he would be willing to discuss this further with any Councilmember.

Councilmember Crowley asked if Mr. Willi's resignation would be in on Thursday. Mr. Willi advised that his resignation would be effective that evening, subject to negotiations to be finalized the following night.

Mayor Truex wished Mr. Willi well in his new career. Vice-Mayor Paul spoke of Mr. Willi's longevity serving the Town.

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**12. TOWN ATTORNEY’S COMMENTS**

**SUNNY LAKES.** Mr. Kiar advised that September 15, 2004 was the last date to terminate the contract. Mayor Truex asked if this item could be agendized for discussion. Mr. Willi indicated in the affirmative and advised that he would seek direction from Council. Councilmember Starkey wanted to have options available for Council to review as she was concerned about the extended time period before funding was actually granted.

**SUNRISE WATER.** Mayor Truex requested to place the Sunrise water issue on the agenda for the next Council meeting under Old Business. He wanted an update on this matter as he felt it was not moving forward.

**13. ADJOURNMENT**

There being no further business to discuss and no objections, the meeting was adjourned at 10:53 p.m.

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor/Councilmember

\_\_\_\_\_  
Town Clerk